contest between the plaintiff and the mortgagee, the latter introducing the record containing the erroneous description of the mortgaged mule to show notice to the plaintiff. *Held,* that the description was not so indefinite and uncertain as to avoid the instrument, even as to a purchaser from the mortgagor in possession. *Stickney* v. *Dunaway & Lambert* (1910), — Ala. —, 53 South. 770.

Courts generally seem to have experienced considerable difficulty in determining what measure of exactness should be required in the record of a chattel mortgage to protect the mortgagee against purchasers of the mortgaged property. A description which is good as between the parties is prima facie good against a trespasser; *O'Brien* v. *Miller,* 117 Fed. 1000; or against a purchaser with actual notice of the mortgage; but it may not be sufficient as against purchasers from the mortgagor, for in the latter case a different degree of certainty is required. *Call* v. *Gray,* 37 N. H. 428, 75 Am. Dec. 141; *Leighton* v. *Stuart,* 19 Neb. 546, 26 N. W. 198; *Houser* v. *Andersch,* 61 Mo. App. 15. The rules as enunciated by various courts are generally in accord, but different courts apply them with varying results. In *Peck* v. *Dyer,* 147 Ill. 592, the Illinois Supreme Court said that the constructive notice which flows exclusively from the record cannot be more extensive than the facts stated therein, and must be understood to be only such notice as could have been obtained from an actual inspection of the record. A subsequent purchaser is entitled to rely on the record and cannot be charged with constructive notice of latent equities or facts not disclosed or suggested by the record itself. Other courts have held that where the property conveyed is not described sufficiently to identify it with reasonable certainty and there is nothing to put the searcher on inquiry the record will not give constructive notice of the conveyance. *Davis* v. *Ward,* 109 Cal. 186; *Rodgers* v. *Cavanaugh,* 24 Ill. 583. Although it has been held that a description of a horse as bay is good, though after the execution of the mortgage its color changes to sorrel and white, (*Turpin* v. *Cunningham,* 127 N. C. 508, 37 S. E. 453, 51 L. R. A. 800, 80 Am. St. Rep. 808) it would seem that the principal case goes as far as any reported decision in sustaining a description which is not merely indefinite but is actually erroneous at the time of the execution of the mortgage. In *Yant* v. *Harvey,* 55 Ia. 421, 7 N. W. 675, a description of a horse as brown, with a further description, was held good, although on the trial the only person testifying to the color of the horse testified that it might be called either brown or black.

CONSTITUTIONAL LAW—IMPAIRING CONTRACT OBLIGATIONS—INHERITANCE TAX—COMMUNITY PROPERTY.—James Moffitt and his wife were married in California in 1863, and became the owners of a large amount of community property in that state. On Mr. M's death the state assessed a tax of $26,684, as against Mrs. M's one-half interest in the estate, and an order was entered directing its payment by the executors. An appeal was taken to the California Supreme Court, which held that the surviving wife's share of the community property was subject to this inheritance tax, and that the tax does not violate the contract clause of the U. S. Constitution. On writ of error to the

Supreme Court of California the United States Supreme Court *held,* that such tax does not violate the Constitution, that the tax is a local question and cannot be reviewed by the Federal Supreme Court. *Moffitt* v. *Kelly* (1910), 31 Sup. Ct. 79.

The tax on a wife's succession to her share of community property is a new question, there being apparently only one decision previous to the California decision in the present case. In that case the Louisiana court held that the surviving spouse did not acquire, in usufruct, the estate of the deceased spouse by inheritance, hence such usufruct is not subject to the inheritance tax. (By the law, the surviving spouse got a life use of the share of the deceased spouse, under certain conditions.) *Succession of Marsal,* 118 La. 212. In the California case the opposite conclusion is reached, holding that under the law there is in the wife a mere expectancy during coverture, no proprietary interest in the property, only an inchoate right. BALLINGER, COMMUNITY PROPERTY, p. 29; *Van Maren* v. *Johnson,* 15 Cal. 308. That the state having the right to tax, without, generally speaking, any right of supervision in the United States, may tax this succession to rights in the property as a subject of taxation, because she takes her share as heir even though the husband by will could not deprive her of her share. *Re Burdick,* 112 Cal. 387; *Spreckels* v. *Spreckels,* 116 Cal. 339. In the opinion of the United States Supreme Court, the nature or character of the right of the wife in community property for the purpose of taxation is peculiarly a local question which the United States court has no power to review. *Castillo* v. *McConnico,* 168 U. S. 674, 683. So that even though the wife's interest is vested and could not be impaired by subsequent legislation, the state still has power to select as an object of taxation the vesting in complete possession and enjoyment of such share in community property.

CONTRIBUTORY NEGLIGENCE — NEGLIGENCE IMPUTED TO PASSENGER. — Plaintiff's intestate, while riding in an automobile as a guest, was injured through the concurrent negligence of defendant and the party with whom he was riding. *Held,* that the negligence of the driver was not imputable to intestate. *Littlefield* v. *Gilman* (1911), — Mass. —, 93 N. E. 809.

By the great weight of authority the negligence of the driver of a private conveyance will not be imputed to a person riding with him, but who has no authority or control over him such as that of master and servant. *Wilson* v. *Puget Sound etc. Ry. Co.,* 52 Wash. 522, 101 Pac. 50; *Cincinnati etc. R. Co.* v. *Cook,* 44 Ind. App. 303, 88 N. E. 76; *Mayor of Baltimore* v. *Maryland,* 166 Fed. 641; and cases in 29 CYC., p. 549. See also 5 MICH. L. REV. 486. But there are some decisions to the contrary. *Mullen* v. *Owosso,* 100 Mich. 103, 58 N. W. 663, 23 L. R. A. 693; *Whittaker* v. *Helena,* 14 Mont. 124, 35 Pac. 904, 43 Am. St. Rep. 621; *Lightfoot* v. *Winnebago Traction Co.,* 123 Wis. 479, 102 N. W. 30. To create the imputation of negligence the passenger must have assumed such control and direction of the vehicle as to be considered practically in the exclusive possession of it. *Peabody* v. *R. Co.,* 200 Mass. 277, 85 N. E. 1051; *Duval* v. *Atl. Coast Line R. Co.,* 134 N. C. 331, 46 S. E. 750, 65 L. R. A. 722. It has also been held that the fact that the rela-